



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/783,909	02/20/2004	Michael McDonald	DNCEH-66401	7143
24201	7590	05/24/2007		
FULWIDER PATTON LLP HOWARD HUGHES CENTER 6060 CENTER DRIVE, TENTH FLOOR LOS ANGELES, CA 90045			EXAMINER FRISBY, KESHA	
			ART UNIT 3714	PAPER NUMBER
			MAIL DATE 05/24/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/783,909

Applicant(s)

MCDONALD ET AL.

Examiner

Kesha Frisby

Art Unit

3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☒ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Oath/Declaration

1. The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:

It does not state that the person making the oath or declaration acknowledges the duty to disclose to the Office all information known to the person to be material to patentability as defined in 37 CFR 1.56.

The correct statement should read "I acknowledge the duty to disclose information which is material to patentability of this application in accordance with Title 37, Code of Federal Regulations Section 1.56" if this holds true to the applicant.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. **Claims 1, 2 & 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Toniolo (U.S. Publication Number 2006/0154220) in view of Korn (U.S. Patent Number 5,781,198) and Parulski et al. (U.S. Patent Number 5,595,389).**

Referring to claims 1, 2 & 4, Toniolo discloses providing a dance routine with music, involving at least one dancer with the dancer's head in a substantially stationary disposition (paragraph 0011), providing a video of the dance routine, with the music, showing the dancer's body but not the dancer's head, and the movement of the dancer's

Art Unit: 3714

body in synchronism with the music (Fig. 13 & the associated text: paragraphs 0104-0106), recording the video appearance of the at least one celebrant's head during the playing of the music to the at least one celebrant (paragraph 0106). *Toniolo does not teach disposing the head of at least one celebrant in an opening in a foreground enclosure disposed in front of the celebrant's head and replacing the at least one celebrant's head in place of the at least one dancer's head at the position of the at least one dancer's head in the video of the at least one dance routine to provide a video of the dancer's body and the at least one celebrant's head and providing a video of the dance routine to the celebrant with the at least one celebrant's head replacing the at least one dancer's head and providing a background and the foreground enclosure in a particular color, subjecting the background and the foreground enclosure to chromakeying to eliminate the particular color in the background and the foreground enclosure, and substituting a particular background in the space previously operated by the background of the particular color.* Korn teaches disposing the head of at least one celebrant in an opening in a foreground enclosure disposed in front of the celebrant's head (Figs 5B & 5D & the associated text) and providing a background and the foreground enclosure in a particular color (column 1 lines 61-64), subjecting the background and the foreground enclosure to chromakeying to eliminate the particular color in the background and the foreground enclosure (column 1 line 66-column 2 line 5), and substituting a particular background in the space previously operated by the background of the particular color (column 1 line 66-column 2 line 5). It would have been obvious to one of ordinary skill in the art at the time the invention was made to

Art Unit: 3714

include disposing the head of at least one celebrant in an opening in a foreground enclosure disposed in front of the celebrant's head, as disclosed by Korn, incorporated into Toniolo in order to give the image a different look. *However, Toniolo/Korn does not teach replacing the at least one celebrant's head in place of the at least one dancer's head at the position of the at least one dancer's head in the video of the at least one dance routine to provide a video of the dancer's body and the at least one celebrant's head and providing a video of the dance routine to the celebrant with the at least one celebrant's head replacing the at least one dancer's head.* However, Parulski et al. teaches replacing the at least one celebrant's head in place of the at least one dancer's head at the position of the at least one dancer's head in the video of the at least one dance routine to provide a video of the dancer's body and the at least one celebrant's head (Figs. 1 & 2B & the associated text) and providing a video of the dance routine to the celebrant with the at least one celebrant's head replacing the at least one dancer's head (column 3 lines 36-38). It would have been obvious to one of ordinary skill in the art at the time the invention was made to replacing heads, as disclosed by Parulski et al., incorporated into Toniolo/Korn so that the celebrant can view themselves performing the recorded dance moves.

4. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Toniolo/Korn/Parulski et al. and further in view of Rosedale (U.S. Patent Number 7,117,136).

Referring to claim 3, Toniolo/Korn/Parulski et al. discloses a method as set forth in claim

1. *Toniolo/Korn/Parulski et al. does not disclose physically restraining the positioning of*

the at least one dancer's head so that the at least one dancer's head remains substantially in a fixed position during the video showing the performance of the dance routine by the dancer. However, Rosedale teaches physically restraining the positioning of the at least one dancer's head so that the at least one dancer's head remains substantially in a fixed position during the video showing the performance of the dance routine by the dancer (Figs. 1A, 4A & 4B & the associated text). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include restraining the dancer's head to a substantially unitary position, as disclosed by Rosedale, incorporated into Toniolo/Korn/Parulski et al. in order to hold the immobilized portion in a fixed position.

5. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Toniolo/Korn/Parulski et al. and further in view of Horigami et al. (U.S. Patent Number 6,758,756).

Referring to claim 5, Toniolo/Korn/Parulski et al. discloses a method as set forth in claim 1. *Toniolo/Korn/Parulski et al. does not disclose including the step of: digitizing the recorded video of the dance routine to a computer to adjust for changes in the position of the dancer's body, thereby to align the dancer's body with the celebrant's head.* However, Horigami et al. teaches digitizing the recorded video of the dance routine to a computer to adjust for changes in the position of the dancer's body, thereby to align the dancer's body with the celebrant's head (column 11 lines 26-65). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include digitizing the recorded video, as disclosed by Horigami et al., incorporated

into Toniolo/Korn/Parulski et al. so that the video will look as real as possible.

6. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Toniolo/Korn/Parulski et al. and further in view of Stamper et al. (U.S. Patent Number 6,894,686).

Referring to claim 6, Toniolo/Korn/Parulski et al. discloses a method as set forth in claim

1. *Toniolo/Korn/Parulski et al. does not disclose including the step of: enlarging the celebrant's head to maintain an appearance of the celebrant's head on the dancer's body even with shifting the position of the dancer's body relative to the celebrant's head during the dance routine of the dancer.* However, Stamper et al. teaches including the step of: enlarging the celebrant's head to maintain an appearance of the celebrant's head on the dancer's body even with shifting the position of the dancer's body relative to the celebrant's head during the dance routine of the dancer (column 2 lines 57-60). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include enlarging, as disclosed by Stamper et al., incorporated into Toniolo/Korn/Parulski et al. in order to manipulate images.

7. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Toniolo/Korn/Parulski et al. and further in view of Rosedale, Horigami et al. and Stamper et al..

Claim 7 requires the same rejections as claims 2-6. Please refer to the rejections above.

8. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Toniolo in view of Parulski et al..

Art Unit: 3714

Referring to claim 8, Toniolo discloses recording a dance routine of a dancer with the head of the dancer in a substantially stationary position and with the feet and body of the dancer moving in response to the music (paragraph 0011). *Toniolo does not disclose removing the head of the dancer from the recording, and substituting the head of the celebrant in the recording in place of the removed head of the dancer.* However, Parulski et al. teaches removing the head from the recording (column 3 lines 9-16), and substituting the head of the celebrant in the recording in place of the removed head (Fig. 2B & the associated text). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include removing and substituting the head, as disclosed by Parulski et al., incorporated Toniolo in order to personalize the images.

9. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Toniolo/Parulski et al. and further in view of Stamper et al. (U.S. Patent Number 6,894,686).

Referring to claim 9, Toniolo/Parulski et al. discloses a method as set forth in claim 8. *Toniolo/Parulski et al. does not disclose enlarging the head of the celebrant relative to the head of the dancer to compensate for changes in the positioning of the celebrant's head while maintaining the dancer's head on the dancer's neck.* However, Stamper et al. teaches enlarging the head of the celebrant relative to the head of the dancer to compensate for changes in the positioning of the celebrant's head while maintaining the dancer's head on the dancer's neck (column 2 lines 57-60). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include enlarging,

Art Unit: 3714

as disclosed by Stamper et al., incorporated into Parulski et al./Toniolo in order to manipulate images.

10. Claims 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Toniolo/Parulski et al. and further in view of Korn.

Referring to claims 10-12, Toniolo/Parulski et al. discloses a method as set forth in claim 8. *Toniolo/Parulski et al. does not disclose including the step of: "disposing the celebrant's head in an opening in a foreground enclosure in front of the celebrant to provide for only the celebrant's head to be visible and including the step of: chromakeying the cover to eliminate the foreground enclosure in the recording so that only the celebrant's head is provided to the recording and providing a background in back of the celebrant (Figs. 4B & 4D & the associated text), chromakeying the background to eliminate the background, and providing a new background in place of the chromakeyed background.* However, Korn teaches including the step of: "disposing the celebrant's head in an opening in a foreground enclosure in front of the celebrant to provide for only the celebrant's head to be visible (Figs. 4B & 4D & the associated text) and including the step of: chromakeying the cover to eliminate the foreground enclosure in the recording so that only the celebrant's head is provided to the recording (column 1 lines 29-63) chromakeying the background to eliminate the background (remove the background), and providing a new background in place of the chromakeyed background (replace background). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include disposing the celebrant's head and chromakeying, as disclosed by Korn, incorporated into Toniolo/Parulski et al. in order to

Art Unit: 3714

record real time images.

11. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Toniolo/Parulski et al. and further in view of Horigami et al..

Referring to claim 13, Toniolo/Parulski et al. discloses a method as set forth in claim 8.

Toniolo/Parulski et al. does not disclose digitizing the video of the dance routine to a computer to adjust for changes in the dancer's body relative to the celebrant's head, thereby to align the dancer's body with the celebrant's head. However, Horigami et al. teaches digitizing the video of the dance routine to a computer to adjust for changes in the dancer's body relative to the celebrant's head, thereby to align the dancer's body with the celebrant's head. (column 11 lines 26-65). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include digitizing the recorded video, as disclosed by Horigami et al., incorporated into Parulski et al./Toniolo/Korn so that the video will look as real as possible.

12. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Toniolo/Parulski et al./Stamper et al. and further in view of Korn and Horigami et al..

Referring to claim 14, Toniolo/Parulski et al./Stamper et al. discloses a method as set forth in claim 9. Toniolo/Parulski et al./Stamper et al. does not disclose disposing the celebrant's head in an opening in a foreground enclosure in front of the celebrant to provide for only the celebrant's head to be visible, digitizing the video of the dance routine to a computer to stabilize the dancer's head in substantially one position in the video, chromakeying the cover to eliminate the cover in the recording

so that only the celebrant's head is provided to the recording, providing a background in back of the celebrant, chromakeying the background to eliminate the background, and providing a new background in place of the chromakeyed background. However, Korn teaches including the step of." disposing the celebrant's head in an opening in a foreground enclosure in front of the celebrant to provide for only the celebrant's head to be visible (Figs. 4B & 4D & the associated text) and including the step of: chromakeying the cover to eliminate the foreground enclosure in the recording so that only the celebrant's head is provided to the recording (column 1 lines 29-63) chromakeying the background to eliminate the background (remove the background), and providing a new background in place of the chromakeyed background (replace background). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include disposing the celebrant's head and chromakeying, as disclosed by Korn, incorporated into Toniolo/Parulski et al./Stamper et al. in order to record real time images. Toniolo/Parulski et al./Stamper et al./Korn does not teach digitizing the video of the dance routine to a computer to stabilize the dancer's head in substantially one position in the video. However, Horigami et al. teaches digitizing the video of the dance routine to a computer to stabilize the dancer's head in substantially one position in the video (column 11 lines 26-65). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include digitizing the recorded video, as disclosed by Horigami et al., incorporated into Toniolo/Parulski et al./Stamper et al./Korn so that the video will look as real as possible.

13. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Parulski et al. in view of Toniolo.

Referring to claim 15, Parulski et al. discloses providing a visual image and a synchronized audio recording on a medium capable of being duplicated (column 1 lines 55-58), the video image and the audio recording being of a dancer providing a dance routine with the dancer's head in a substantially stationary disposition, removing the dancer's head from the video image (Figs. 1, 2A, 2B and the associated text), and substituting a celebrant's head on the dancer's body after removing the dancer's head from the dancer's body in the video (Figs. 1, 2A, 2B and the associated text). *Parulski does not disclose a dancer.* However, Toniolo teaches a dancer (abstract). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include a dancer, as disclosed by Toniolo, incorporated into Parulski et al. in order to perform a dance routine.

14. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Parulski et al./Toniolo and further in view of Rosedale (U.S. Patent Number 7,117,136).

Referring to claim 16, Parulski et al./Toniolo discloses a method as set forth in claim 15 and the dancer is performing the dance routine in synchronism with the music (paragraph 0011). *Parulski et al./Toniolo does not disclose restraining the dancer's head to a substantially unitary position.* However, Rosedale teaches restraining the head to a substantially unitary position (Figs. 1A, 4A & 4B & the associated text). It would have been obvious to one of ordinary skill in the art at the time the invention was

Art Unit: 3714

made to include restraining the dancer's head to a substantially unitary position, as disclosed by Rosedale, incorporated into Parulski et al./Toniolo in order to hold the immobilized portion in a fixed position.

15. Claims 17, 18 & 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Parulski et al./Toniolo and further in view of Korn.

Referring to claims 17 & 20, Parulski et al./Toniolo discloses a method as set forth in claim 15. *Parulski et al./Toniolo does not disclose including the steps of: providing the image of the celebrant's head in a background of a particular color so that only the celebrant's head is visible in the background of the particular color, and eliminating the background of the particular color from the image of the celebrant's head before the image of the celebrant's head is transferred to the dancer's body in replacement of the dancer's head and providing an individualized background after the removal of the background of the particular color.* However, Korn teaches including the steps of: providing the image of the celebrant's head in a background of a particular color so that only the celebrant's head is visible in the background of the particular color (Figs. 4B & 4D & the associated text), and eliminating the background of the particular color from the image of the celebrant's head before the image of the celebrant's head is transferred to the dancer's body in replacement of the dancer's head (column 3 lines 11-15) and providing an individualized background after the removal of the background of the particular color (column 7 lines 17-32). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include providing the image of the celebrant's head in a background of a particular color and eliminating the

background of the particular color, as disclosed by Korn, incorporated into Parulski et al./Toniolo in order to allow for real time background replacement.

Referring to claim 18, Parulski et al./Toniolo discloses a method as set forth in claim 15.

Parulski et al./Toniolo does not disclose providing the image of the celebrant in a foreground of a particular color so that only the celebrant's head is visible in the foreground of the particular color, and eliminating the background of the particular color from the image of the celebrant's head before the image of the celebrant's head is transferred to the dancer's body in replacement of the dancer's head. However, Korn teaches providing the image of the celebrant in a foreground of a particular color so that only the celebrant's head is visible in the foreground of the particular color (Figs. 4B & 4D & the associated text), and eliminating the background of the particular color from the image of the celebrant's head before the image of the celebrant's head is transferred to the dancer's body in replacement of the dancer's head (column 3 lines 11-15). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include providing the image of the celebrant in a foreground of a particular color and eliminating the background of the particular color, as disclosed by Korn, incorporated into Parulski et al./Toniolo in order to allow for real time background replacement.

16. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Parulski et al./Toniolo and further in view of Stamper et al. (U.S. Patent Number 6,894,686).

Referring to claim 19, Parulski et al./Toniolo discloses a method as set forth in claim 15.

Parulski et al./Toniolo does not disclose enlarging the celebrant's head relative to the dancer's head in the video image to insure that the head is disposed on the dancer's neck regardless of a slight displacement of the dancer's body from a particular position.

However, Stamper et al. teaches enlarging the celebrant's head relative to the dancer's head in the video image to insure that the head is disposed on the dancer's neck regardless of a slight displacement of the dancer's body from a particular position (column 2 lines 57-60). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include enlarging, as disclosed by Stamper et al., incorporated into Parulski et al./Toniolo in order to manipulate images.

17. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Parulski et al./Toniolo/Korn and further in view of Horigami et al..

Referring to claim 21, Parulski et al./Toniolo/Korn discloses a method as set forth in claim 17. *Parulski et al./Toniolo/Korn does not disclose employing digitizing techniques to adjust for changes in the position of the dancer's body, thereby to align the dancer's body with the celebrant's head.* However, Horigami et al. teaches employing digitizing techniques to adjust for changes in the position of the dancer's body, thereby to align the dancer's body with the celebrant's head (column 11 lines 26-65). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include digitizing the recorded video, as disclosed by Horigami et al., incorporated into Parulski et al./Toniolo/Korn so that the video will look as real as possible.

18. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over

Parulski et al./Toniolo/Rosedale and further in view of Korn.

Referring to claim 22, Parulski et al./Toniolo/Rosedale discloses a method as set forth in claim 16. *Parulski et al./Toniolo/Rosedale does not disclose including the steps of: providing the image of the celebrant's head in a background of a particular color so that only the celebrant's head is visible in the background of the particular color, and eliminating the background of the particular color from the image of the celebrant's head before the image of the celebrant's head is transferred to the dancer's body in replacement of the dancer's head and disclose providing the image of the celebrant in a foreground of a particular color so that only the celebrant's head is visible in the foreground of the particular color, and eliminating the background of the particular color from the image of the celebrant's head before the image of the celebrant's head is transferred to the dancer's body in replacement of the dancer's head.* However, Korn teaches including the steps of: providing the image of the celebrant's head in a background of a particular color so that only the celebrant's head is visible in the background of the particular color (Figs. 4B & 4D & the associated text), and eliminating the background of the particular color from the image of the celebrant's head before the image of the celebrant's head is transferred to the dancer's body in replacement of the dancer's head (column 3 lines 11-15) and providing an individualized background after the removal of the background of the particular color (column 7 lines 17-32) and providing the image of the celebrant in a foreground of a particular color so that only the celebrant's head is visible in the foreground of the particular color (Figs. 4B & 4D & the associated text), and eliminating the background of the particular color from the image

Art Unit: 3714

of the celebrant's head before the image of the celebrant's head is transferred to the dancer's body in replacement of the dancer's head (column 3 lines 11-15). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include providing the image of the celebrant's head in a background of a particular color and eliminating the background of the particular color, as disclosed by Korn, incorporated into Parulski et al./Toniolo in order to allow for real time background replacement.

19. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Parulski et al./Toniolo/Rosedale/Korn and further in view of Stamper et al and Horigami et al..

Referring to claim 23, Parulski et al./Toniolo/Rosedale/Korn discloses a method as set forth in claim 22 and including the steps of: and providing an individualized background after the removal of the background of the particular color (column 7 lines 17-32 of Korn). *Parulski et al./Toniolo/Rosedale/Korn does not disclose enlarging the celebrant's head relative to the dancer's head in the video image to insure that the head is disposed on the dancer's neck regardless of a slight displacement of the dancer's body from a particular position and including the step of: employing digitizing techniques to adjust for changes in the position of the dancer's body, thereby to align the dancer's body with the celebrant's head.* However, Stamper et al. teaches enlarging the celebrant's head relative to the dancer's head in the video image to insure that the head is disposed on the dancer's neck regardless of a slight displacement of the dancer's body from a particular position (column 2 lines 57-60). It would have been obvious to one of

Art Unit: 3714

ordinary skill in the art at the time the invention was made to include enlarging, as disclosed by Stamper et al., incorporated into Parulski et al./Toniolo/Rosedale/Korn in order to manipulate images. *Parulski et al./Toniolo/Rosedale/Korn /Stamper et al. does not disclose including the step of: employing digitizing techniques to adjust for changes in the position of the dancer's body, thereby to align the dancer's body with the celebrant's head.* However, Horigami et al. teaches including the step of: employing digitizing techniques to adjust for changes in the position of the dancer's body, thereby to align the dancer's body with the celebrant's head (column 11 lines 26-65). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include digitizing the recorded video, as disclosed by Horigami et al., incorporated into Parulski et al./Toniolo/Rosedale/Korn/Stamper et al. so that the video will look as real as possible.

Citation of Pertinent Art

20. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Eilat et al. (U.S. Patent Number 6,227,974) teaches an interactive game system capturing a picture of a player and transferring the picture of the player to a headend.

Filo et al. (U.S. Patent Number 6,215,498) teaches a virtual command post.

Takase et al. (U.S. Patent Number 6,450,888) teaches a game system and program.

Eyzaquirre et al. (U.S. Patent Number 6,353,170) teaches a method and system for composing electronic music and generating graphical information.

Dobrowsky (U.S. Patent Number 2,554,941) teaches a musical toy.


Ota (U.S. Patent Number 6,001,013) teaches a video dance game apparatus and program storage device readable by the apparatus.


Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kesha Frisby whose telephone number is 571-272-8774. The examiner can normally be reached on Mon. - Wed. 7-3pm & Thurs. - Fri. 7-3:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Pezzuto can be reached on 571-272-6696. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Kathleen Mosser
Primary Examiner
Art Unit 3714


Kyf 5/18/2007